



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 14.03.2000
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Proposal for a

COUNCIL REGULATION

**suspending, for a period of six months, Council Regulation (EC) No 2151/1999 imposing a ban on flights between the territories of the Community and the Federal Republic of Yugoslavia other than the Republic of Montenegro or the Province of Kosovo,
and
amending Council Regulations (EC) No 1294/1999 and 2111/1999 as regards payments and supplies in relation to flights during the period of suspension**

(presented by the Commission)

EXPLANATORY MEMORANDUM

- (1) By means of Council Regulation (EC) No 2151/1999 of 11 October 1999 the Council confirmed the ban on flights on flights between the territories of the Community and the Federal Republic of Yugoslavia (FRY), first imposed in May 1999, granting exemptions for flights to the Republic of Montenegro and the Province of Kosovo.
- (2) Further to requests by the democratic forces in the Federal Republic of Yugoslavia, and in particular the political opposition in the Republic of Serbia, the Council adopted, on 28 February 2000, a Common Position determining that the flight ban should be suspended for a period of six months and calling on the Community to implement fully the measures resulting from this suspension.
- (3) The attached proposal is for a Council Regulation implementing that Common Position. In order to allow an effective resumption of flights, not only by Community carriers but also by the FRY's state -owned carrier, JAT, it is considered necessary that the suspension be implemented in such a way that, despite the financial restrictions applicable to JAT as a company included in the definition of the Government of the FRY in Council Regulation (EC) No 1294/1999, it should have one bank account in each Member State that can be used to make and receive payments related to authorised flights. The proposal makes provision for the use of such accounts and for payments necessary in relation to these flights that would otherwise be prohibited.
- (4) As regards supplies of petroleum and petroleum products needed to execute flights, the proposal makes provision for the necessary supplies to aircraft engaged in flights to the Federal Republic of Yugoslavia, in airports in both the Community and, to the extent that the embargo applies, in third countries. In order not to undermine the embargo, it would appear appropriate to leave it to the FRY authorities to ensure that fuel is available in airports in the FRY and to supply fuel to both aircraft registered in the Community and other aircraft, without discrimination.
- (5) Taking into account that the suspension is of limited duration, it is proposed that payments, as well as supplies of petroleum and petroleum products, should be reported in order to provide the basis for an evaluation of the operation of the suspension.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60 and 301 thereof,

Having regard to Common Position 2000/176/CFSP of 28 February 2000, adopted by the Council on the basis of Article 15 of the Treaty on European Union, concerning a suspension, for a limited period of time, Article 4 of Common Position 1999/318/CFSP concerning restrictive measures against the Federal Republic of Yugoslavia¹,

Having regard to the proposal from the Commission²,

Whereas:

- (1) In the light of an urgent and unanimous call of the democratic opposition in the Federal Republic of Yugoslavia, the Council determined that the ban on flights between the Federal Republic of Yugoslavia and the European Community should be suspended until end of August 2000, while, maintaining its overall policy framework of applying maximum pressure on President Milosevic and his regime, strengthening the visa ban and the financial sanctions and welcoming the commitment by the democratic forces in the Federal Republic of Yugoslavia to work together for democratic change.
- (2) Therefore, the provisions of Council Regulation (EC) No 2151/1999 imposing a ban on flights between the territories of the Community and the Federal Republic of Yugoslavia other than the Republic of Montenegro or the Province of Kosovo³, should be suspended during that period under the conditions defined in this Regulation.
- (3) In addition, Council Regulation (EC) No 1294/1999 concerning a freeze of funds and a ban on investment in relation to the Federal Republic of Yugoslavia⁴ and Council Regulation (EC) No 2111/1999 prohibiting the sale and supply of petroleum and

¹ OJ L 56, 1. 3. 2000, p. 1.

² OJ C , , p. .

³ OJ L 264, 12. 10. 1999, p. 3.

⁴ OJ L 153, 19. 6. 1999. p. 63.

certain petroleum products to certain parts of the Federal Republic of Yugoslavia⁵, should be amended in order to make provision for transfers of funds, the use of funds and supplies of petroleum and petroleum products which will be necessary in relation to flights during the period of suspension.

- (4) It is opportune to make provision for monitoring of the implementation of the suspension,

HAS ADOPTED THIS REGULATION:

Article 1

1. Council Regulation (EC) No 2151/1999 shall be suspended until 28 August 2000.
2. For the period referred to in the previous paragraph, the competent authorities listed in Annex I to Council Regulation (EC) No 2151/1999 may authorise individual, or a series of, flights by civil aircraft as defined in Article 1(c) between the territories of the Community and the Federal Republic of Yugoslavia.

Without prejudice to the power of these competent authorities to withdraw authorisations, authorisations granted under this Article shall cease to be valid on the date referred to in paragraph 1 of this Article or on any earlier date stipulated by the competent authorities granting the authorisation.

Article 2

1. Notwithstanding Article 3(1) of Council Regulation (EC) No 1294/1999, JAT – Jugoslovenski Aerotransport (Yugoslav Airlines) may, in each Member State, open one account with a Community bank in order to receive and make payments in relation to flights between the territories of the Federal Republic of Yugoslavia and the European Community. The funds in such account shall be used exclusively to pay, in relation to such flights,
 - charges for air traffic control services rendered in the Community,
 - charges for ground handling and other services rendered by Community companies in airports in the Community,
 - charges for services rendered by carriers having their principal place of business or their registered office in a Member State of the Community,
 - the price of supplies, to aircraft in airports in the Community, of goods necessary for the proper functioning of such aircraft, including petroleum and petroleum products, and
 - taxes, customs duties and other charges imposed by the Community and its Member States.

⁵ OJ L 258, 5. 10. 1999, p. 12.

2. Notwithstanding Article 3(1) of Council Regulation (EC) No 1294/1999, funds transferred by JAT from outside the Community to a bank account opened in accordance with in the previous paragraph, shall not be frozen.
3. Article 3(2) of Council Regulation (EC) No 1294/1999, shall not apply to payments for goods and services, as well as payments of taxes, customs duties and other charges, on the following conditions:
 - (a) That the obligation to pay is directly and immediately related to flights between the territories of the Community and the Federal Republic of Yugoslavia, executed during the period referred to in Article 1(1);
 - (b) That the charges, prices or rates are not applied on a discriminatory basis, and such the level of such charges, prices or rates in Euro does not exceed that applicable during the six month period before 19 June 1999, increased with the average rate of inflation in the Community since that date;
 - (c) That, in the case of payment of taxes, customs duties and other charges, the taxes, customs duties and other charges, imposed before or after the entry into force of this Regulation, were not imposed to counteract any reduction of economic relations with the Federal Republic of Yugoslavia decided by the European Community, and the payment fell due as a result of flights authorised in accordance with Article 1(2);
 - (d) That transfers of funds to the Federal Republic of Yugoslavia shall take place only, if the person making the payment both demonstrates that payment has to take place in the Federal Republic of Yugoslavia, and that it does not have sufficient funds in that country to make that payment, and obtains prior authorisation from the competent authorities of the Member States, as listed in Annex III to Council Regulation (EC) No 1294/1999; and
 - (e) That all payments shall be reported to the competent authorities of the Member State most concerned, as listed in Annex III to Council Regulation (EC) No 1294/1999, and to the Commission on a monthly basis, within two weeks of the end of the month to which the report relates. The report shall, where appropriate, be accompanied by evidence justifying the making of a payment in the Federal Republic of Yugoslavia.

Article 3

1. Article 1 of Council Regulation (EC) No 2111/1999 shall not apply to supplies of petroleum and petroleum products to any civil aircraft in an airport in the Community, provided that
 - (a) such supplies are necessary for the proper functioning of such aircraft;
 - (b) such supplies are directly and immediately related to flights between the territories of the Community and the Federal Republic of Yugoslavia authorised in accordance with Article 1(2); and
 - (c) all supplies shall be reported to the competent authorities of the Member State most concerned, as listed in Commission Regulations (EC) No 1084/1999 and

1971/1999⁶, and to the Commission on a monthly basis, within two weeks of the end of the month to which the report relates.

2. Article 1 of Council Regulation (EC) No 2111/1999 shall not apply to, direct or indirect, supplies of petroleum and petroleum products by bodies incorporated or constituted under the law of a Member State, to aircraft in airports in third countries other than the Federal Republic of Yugoslavia, provided that such supplies are necessary for the proper functioning of such aircraft and are directly and immediately related to flights between the territories of the third country concerned and the Federal Republic of Yugoslavia, executed during the period of suspension referred to in Article 1(1).

Article 4

1. The Commission shall monitor the implementation of this Regulation, and in particular the actions of the Federal Republic of Yugoslavia and the Republic of Serbia vis-à-vis Community carriers, and report to the Council before the end of the period referred to in Article 1(1).
2. The Member States and the Commission shall inform each other of the measures taken under this Regulation and shall supply each other with all relevant information at their disposal in connection with this Regulation, such as granting and withdrawal of authorisations, and summaries of information received in accordance with Articles 2(3)(e) and 3(1)(c).

Article 5

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

⁶ OJ L 131, 27. 5. 1999, p. 29 and L 244, 16. 9. 1999, p. 40.